

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

JAMES KUCZMASKI, ADAM PIKE,)
RYAN PHILLIPS, JOSH STONE,)
SUHANE LOWERY, KEVIN BELL,)
HAMP CRUM, III, and KEVIN MOORE,)
individually and on behalf of all other)
persons similarly situated,)

Plaintiffs,)

v.)

US FOODSERVICE,)

Defendant.)

Civil Action No. 2:06-cv-731

NOTICE OF FILING DEFENDANT'S EXPERT DESIGNATION

Defendant U.S. Foodservice's Designation of Expert Witnesses is attached
hereto as Exhibit A.

Respectfully submitted,

/s/ Tammy L. Baker

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Birmingham, Alabama 35203

Facsimile: 205-323-7674

**ATTORNEYS FOR DEFENDANT
U.S. FOODSERVICE, INC.**

CERTIFICATE OF SERVICE

I hereby certify that on April 16, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Gregory O. Wiggins, Esq.
WIGGINS, CHILDS, QUINN & PANTAZIS, LLC
The Kress Building
301 19th Street North
Birmingham, Alabama 35203

Tucker F. Burge, Esq.
BURGE & BURGE
850 Park Place Tower
2001 Park Place North
Birmingham, Alabama 35203

/s/ Tammy L. Baker

Counsel of Record

Exhibit A

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JAMES KUCZMASKI, ADAM PIKE,)
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persons similarly situated,)

Plaintiffs,)

Civil Action No. 2:06-cv-731

v.)

US FOODSERVICE,)

Defendant.)

DEFENDANT'S EXPERT DESIGNATION OF
CHARLES D. COWAN, PH.D. AND
SUSAN CROMWELL DUNCAN, PH.D.

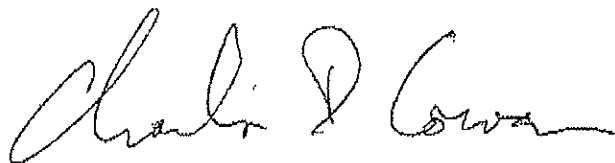
My name is Charles D. Cowan, Ph.D. and I am the Managing Partner of Analytic Focus LLC. I have 30 years of experience in statistical research and design, and have consulted for numerous public and private sector entities on the design, implementation, and evaluation of research and the synthesis of statistical and sampling techniques for measurement. I have served as an expert witness in both state and federal courts. I have authored more than 32 publications. I received my Ph.D. in Mathematical Statistics from George Washington University in 1984. I served as an Adjunct Professor of Economics and Biostatistics at the University of

Alabama – Birmingham from 2002-2007. A copy of my curriculum vitae is attached hereto. My time for analytical work will be billed at \$395 per hour, and my rate for deposition and trial testimony will be \$495 per hour.

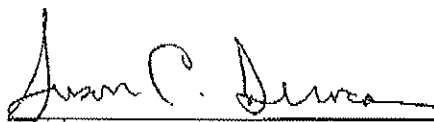
Susan C. Duncan, Ph.D. is a Senior Research Associate at Analytic Focus LLC. Dr. Duncan's areas of expertise are in statistical research design in education and behavioral sciences. Dr. Duncan has also consulted in areas of litigation creating and developing surveys and databases and consulted in Biostatistics designing studies, analyzing, and interpreting data results. Dr. Duncan received her Ph.D. in Educational Psychology – Research, Measurement, and Statistics, from Texas A&M University in 2006. A copy of her curriculum vitae is attached hereto. Her time for analytical work will be billed at \$295 per hour, and her rate for deposition or trial testimony is \$350 per hour.

We may be asked by defendant to respond to plaintiffs' expert witnesses' calculations and/or to calculate hours and/or pay for the plaintiffs in this matter, based on defendant's payroll records, work schedules, and other documents related to the positions of the plaintiffs.

We may also do other statistical analysis that may be necessary to assist in the defense of this lawsuit. That designation will be updated if necessary.

A handwritten signature in cursive script, reading "Charles D. Cowan".

Charles D. Cowan, Ph.D.

A handwritten signature in cursive script, reading "Susan C. Duncan".

Susan Cromwell Duncan, Ph.D.



CHARLES D. COWAN, Ph.D.
ANALYTIC FOCUS LLC

KEY QUALIFICATIONS

Charles D. Cowan is Managing Partner of ANALYTIC FOCUS LLC. Dr. Cowan has 30 years of experience in statistical research and design. He consults for numerous public and private sector entities on the design, implementation, and evaluation of research and the synthesis of statistical and sampling techniques for measurement.

Dr. Cowan has designed some of the largest and most complex research programs conducted by the Federal Government, including the Post Enumeration Program conducted by the Bureau of the Census to evaluate the 1980 Decennial Census, the Economic Cash Recovery valuations conducted by the Resolution Trust Corporation in 1990-95, and many evaluation studies conducted for the Justice Department, the Department of Defense, the Department of Housing and Urban Development, and the Treasury Department. He has provided expert advice to corporations and government agencies on the incorporation of complex research designs in demographic and economic measurement problems, including:

- Development of procedures used by the Resolution Trust Corporation and the FDIC for determination of the value of all assets held by the RTC\FDIC taken from failed banks and S&Ls. During the 1990s, there were hundreds of thousands of assets taken into receivership when financial institutions failed, and these assets varied from large commercial loans to the furniture and fixtures of the institutions itself. Results from this research were used in quarterly reports to Congress on the loss to the American taxpayer that resulted from these failures. These estimates of anticipated recoveries on assets were also used by the RTC and FDIC for financial reporting, leading these agencies to their first clean opinions from the GAO in their annual review of agency financial statements.
- Establishment of audit and sampling methods to determine the completeness and reliability of reporting and record systems. These procedures were used to both expand and streamline bank examinations for safety and soundness and also compliance measurement for the FDIC. These sampling techniques have also been applied in banks and the audit of other Federal agencies concerned with regulatory review of operations and systems, such as regulatory reporting forms, accounts payable and receivable, travel records, and litigation related systems for banks, regulatory agencies, and law firms;

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- Application of econometric and biometric procedures for measurement of credit risk in large portfolios of loans. These models are frequently used for a variety of purposes within financial institutions, such as the pricing of loans, the management of customers long term, decision making on workouts for delinquent loans, and for establishment of economic and regulatory reserves.
 - Evaluation of research conducted for the Department of Defense, for the National Institutes of Health, and for the Department of Agriculture, each in response to Congressional inquiries on the validity of published results, and also for nonprofit institutions, and for defendants in several lawsuits involving evidence proffered by plaintiffs in furtherance of their suit.
 - Model fitting and development of projection methods to measure the likelihood of loss or errors in recording in loans held by banks or put up for auction; measurement of the likelihood of fraud and/or noncompliance in systems, including bank holding companies, trading activities for brokers, and systems for compliance with health department and judicial requirements;
 - Incorporation of population demographic models with financial assessment models to predict risk for insurance companies and corporations in terms of number and value of potential claims in mass tort litigation.
 - Development of procedures used by the Bureau of the Census for apportionment of population for revenue sharing purposes and the estimation of the undercount in the Decennial Census of Population and Housing. These procedures include application of capture-recapture methods to measure the size of the undercount in the decennial census, use of network sampling as an alternative measure for population size, and measurement of the reliability of data collected in the Census.
 - Development of statistical methods to quantify the size of populations, including nomadic populations for the Census of Somalia, the undercount and overcount in the Census of Egypt, the number of missing children in Chicago, IL, and the number of homeless persons and families needing services in several large cities with transient populations.
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Dr. Cowan teaches graduate and undergraduate courses in survey methods, statistics, and computer methods for analysis. He is the co-author of two books, one on evaluation of survey and census methods and one on econometric measures related to the welfare of the U.S. economy. He has written numerous articles on statistical methods, sampling, rare and elusive population research, and optimization techniques.

Prior to cofounding ANALYTIC FOCUS_{LLC}, Dr. Cowan was a Director with ARPC and with Price Waterhouse, where he specialized in financial research, survey research, and audit sampling. From 1991 to 1996, Dr. Cowan was the Chief Statistician for the Resolution Trust Corporation and the Federal Deposit Insurance Corporation, where he designed research necessary to measure the loss from the Savings & Loan Crisis of the late 1980's and capitalization requirements for the RTC funds from the U.S. Treasury. Dr. Cowan also served as the Chief Statistician for the U.S. Department of Education, where he designed large-scale surveys of educational institutions to measure resource needs and availability, and for Opinion Research Corporation, where he designed predictive models of demand for automobile manufacturers, banks, and large horizontally diverse firms like GE and AT&T. Dr. Cowan worked for the U.S. Bureau of the Census, where he was the Chief of the Survey Design Branch and developed many of the techniques in use today for the evaluation of coverage in surveys and censuses.

EDUCATION

Ph.D., Mathematical Statistics, The George Washington University, 1984

M.A., Economics, The University of Michigan, 1973

B.A., English and Economics, The University of Michigan, 1972

PROFESSIONAL EXPERIENCE

Co-Founder, ANALYTIC FOCUS_{LLC}, January, 2002 to present.

Director, ARPC, November, 1999 to December, 2001.

Director, PricewaterhouseCoopers LLP, January 1997 to November, 1999.

Chief Statistician, Federal Deposit Insurance Corporation / RTC, 1991 to 1996.

Chief Statistician, Opinion Research Corporation, 1989 to 1991.

Chief Statistician, National Center for Education Statistics, U.S. Department of Education, 1986 to 1989.

Bureau of the Census: Assistant Division Chief, International Statistical Programs Center, 1984 to 1986; Staff Liaison for Statistical Litigation Support, 1983 to 1984;

Chief, Survey Design Branch, Statistical Methods Division, 1978 to 1983; Acting

Chief, Survey Analysis and Evaluation Branch, Demographic Surveys Division, 1976 to 1978; Office of the Chief, Statistical Research Division, 1975 to 1976

Survey Research Center, Oregon State University: Manager, 1974 to 1975

Institute for Social Research, U. of Michigan: Assistant Study Director, 1972 to 1974.

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PROFESSIONAL ASSOCIATIONS

Adjunct Professor, Economics and Biostatistics, University of Alabama – Birmingham, 2002-2006.

Associate Professor, Statistics, George Washington University, 1993 - 1998.

Visiting Research Professor, Survey Research Laboratory, U. of Illinois, 1983 - 1989.

Consultant, Dept. of Community Psychiatry, Johns Hopkins U., July 1985 - Dec 1987.

PROFESSIONAL SOCIETIES - POSITIONS

President, Research Industry Coalition, 1999-2000

Council Member, Research Industry Coalition, Representative from ASA, 1995-2000

President, Washington/Baltimore Chapter of American Association for Public Opinion Research (AAPOR), 1998

Program Chair, American Association for Public Opinion Research, 1991-2

Program Chair, Section on Survey Research Methods, American Statistical Association (ASA), 1989-90

Secretary-Treasurer, AAPOR, 1985-1986

Associate Secretary-Treasurer, AAPOR, 1984-1985

Editorial Board, Public Opinion Quarterly, 1980-1984

Editorial Board, Marketing Research, 1989-2000

Chair, Conference Committee, AAPOR, 1982-1989

Chair, Committee on Privacy and Confidentiality, ASA, 1980-1981

PROFESSIONAL SOCIETIES – MEMBERSHIPS

American Statistical Association

International Association of Assessment Officers

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PUBLICATIONS

Strumpel, Burkhard; Cowan, Charles; Juster, F. Thomas; and Schmiedeskamp, Jay; editors, Surveys of Consumers 1972-73, Contributions to Behavioral Economics, Ann Arbor: The Institute for Social Research, 1975.

Duncan, Greg, and Cowan, Charles D., "Labor Market Discrimination and Nonpecuniary Work Rewards" in Surveys of Consumers 1972-73, Contributions to Behavioral Economics, Ann Arbor: The Institute for Social Research, 1975.

Curtin, Richard T. and Cowan, Charles D. "Public Attitudes Toward Fiscal Progress" in Surveys of Consumers 1972-73, Contributions to Behavioral Economics, Ann Arbor: The Institute for Social Research, 1975.

Cowan, Charles D., and Spoeri, Randall K., "Statistical Distance Measures and Test Site Selection: Some Considerations", Proceedings of the Computer Science and Statistics: Eleventh Annual Symposium on the Interface, 1978.

Bushery, John R., Cowan, Charles D., and Murphy, Linda R., "Experiments in Telephone-Personal Visit Survey", Proceedings of the American Statistical Association, Section on Survey Research Methods, 1978.

Spoeri, Randall K., and Cowan, Charles D., "On the Use of Distance Measures in Test Site Selection: A Practical Application Using Census Data", Proceedings of the American Statistical Association, Section on Business and Economic Statistics, 1978.

Hogan, Howard, and Cowan, Charles D., "Imputations, Response Errors, and Matching in Dual System Estimation", Proceedings of the American Statistical Association, Section on Survey Research Methods, 1980.

Schwartz, Sidney H., Cowan, Charles D., and Sausman, Kenneth R., "Optimization in the Design of a Large-Scale State Sample", Proceedings of the American Statistical Association, Section on Survey Research Methods, 1980.

Cowan, Charles D., "Modifications to Capture-Recapture Estimation in the Presence of Errors in the Data" presented at the meetings of the American Statistical Association, Biometrics Section, 1982 (no proceedings).

Cowan, Charles D. "Interviews and Interviewing", The Social Science Encyclopedia, Routledge and Kegan Paul, Publishers, The Netherlands, 1984.

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Wei, L. J. and Cowan, Charles D. "Selection Bias", Encyclopedia of Statistical Science, John Wiley and Sons, New York, N.Y., 1984.

Cowan, Charles D. and Malec, Donald J. "Capture-Recapture Models When Both Sources Have Clustered Observations", Journal of the American Statistical Association, June 1986, Vol. 81, # 394, pp. 347-353, and Proceedings of the American Statistical Association, Section on Survey Research Methods, 1984.

Cowan, Charles D. The Effects of Misclassification on Estimates from Capture-Recapture Studies. Unpublished doctoral dissertation, The George Washington University, September 1984.

Cowan, Charles D. "Misclassification of Categorical Data", Proceedings of the American Statistical Association, Section on Survey Research Methods, 1985.

Cowan, Charles D., Biemer, Paul P., Magnani, Robert J., and Turner, Anthony G., Evaluating Censuses of Population and Housing, Statistical Training Document, ISP-TR-5, U.S. Department of Commerce, Bureau of the Census, 1985.

Cowan, Charles D., Turner, Anthony G., and Stanecki, Karen "Design of the Somali Post Enumeration Survey (1986-1987)", Proceedings of the American Statistical Association, Section on Survey Research Methods, 1986.

Cowan, Charles D., Breakey, William R., and Fischer, Pamela J. "The Methodology of Counting the Homeless", Proceedings of the American Statistical Association, Section on Survey Research Methods, 1986.

Cowan, Charles D. and Malec, Donald J. "Sample Allocation for a Multistage, Multilevel, Multivariate Survey", Proceedings of the Fourth Annual Research Conference (ARC IV), U.S. Bureau of the Census, 1988.

Frey, Carolin M., McMillen, Marilyn M., Cowan, Charles D., Horm, John W., and Kessler, Larry G.. "Representativeness of the Surveillance, Epidemiology, and End Results Program Data: Recent Trends in Mortality Rates", Journal of the National Cancer Institute, Vol. 84, No. 11, June 3, 1992.

Cowan, Charles D., Breakey, William R., and Fischer, Pamela J. "The Methodology of Counting the Homeless, A Review" in Homelessness, Health, and Human Needs. Institute of Medicine, National Academy Press, National Academy of Sciences, Washington, D.C., 1988.

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Cowan, Charles D., "Standards for Statistical Surveys in the Federal Government: Practices in the Center for Education Statistics", Proceedings of the American Statistical Association, Section on Survey Methods Research, 1988.

Sudman, Seymour, Sirken, Monroe G., and Cowan, Charles D., "Sampling Rare and Elusive Populations", Science, Vol. 240, pp. 991-996, May 20, 1988.

Cowan, Charles D., "Mall Intercepts and Clinical Trials: The Philosophy of Inference from Different Types of Research Designs" in Marketing Research: A Magazine of Management & Applications, Vol. 1, No. 1, March 1989.

Cowan, Charles D., "Mall Intercepts: Principles of Design for Research" in Proceedings of the Seventh Annual Advertising Research Foundation Research Quality Workshop, September, 1989.

Cowan, Charles D., "Estimating Census and Survey Undercounts Through Multiple Service Contacts" in Housing Policy Debate: Counting the Homeless: The Methodologies, Policies, and Social Significance Behind the Numbers, Volume 2, Issue 3, pp. 869-882, 1991.

Cowan, Charles D., "Ratio vs. Regression Estimators in a Large Scale Survey of S&L's" in Proceedings of the Section on Survey Research Methods, American Statistical Association, 1992.

Cowan, Charles D., "A Longitudinal Survey and Reality Check for the Value of Financial Assets" in Proceedings of Statistics Canada Symposium 92: Design and Analysis of Longitudinal Surveys, November 1992.

Cowan, Charles D., and Wittes, Janet, "Intercept Studies, Clinical Trials, and Cluster Experiments: To Whom Can We Extrapolate?" in Controlled Clinical Trials, Vol.15, pp.24-29, 1994.

Cowan, Charles D., and Klena, Matthew K. "Use of the EM Algorithm for Allocation of Proceeds from Auctions and Bulk Sales" in Proceedings of the Section on Business and Economic Statistics, American Statistical Association, 1995.

Cowan, Charles D., "Coverage, Sample Design, and Weighting in Three Federal Surveys" in Journal of Drug Issues, October, 2001.

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(Page 8)

Cowan, Charles D., "Use of Mass Appraisals in Toxic Tort Litigation Involving Loss of Value" in Proceedings of the International Association of Assessment Officers, October, 2002.

Cowan, Adrian M. and Cowan, Charles D., "Default Correlation: An Empirical Investigation of a Subprime Lender", The Journal of Banking and Finance, March 2004.

Past Experience and Rates – Charles D. Cowan

Trademark Infringement:

Quiksilver v. Brunswick, circa 1997. Deposed, case settled. Worked for the defendant, who had started producing t-shirts under brand name Quiksilver, one of their boat lines. The boat line could be named Quiksilver, but Quiksilver produces “surfer” clothes and were concerned about trademark confusion. We conducted a survey to determine level of confusion and the likely damages caused. Brunswick dropped the t-shirt line and settled.

St. Johns Knits versus St. Johns, circa 1997. Deposed, case settled. Small firm in California named itself St. Johns and began to produce ladies casual apparel with name of St. Johns. Worked for plaintiff, conducting survey on trademark confusion and calculating damages.

Nitro Leisure Products v. Acushnet. **Antitrust**, Trademark, and Deceptive Sales Practices filed in Florida. Deposition in 2003, settled in 2004. Worked for defendant. Issue was whether claims regarding the performance of “used and repackaged” golf balls were valid. Survey conducted, used to support damage claims. Second simultaneous suit was Acushnet v. Nitro – work used in settlement of the two simultaneously.

Community First Bank v. Community Banks. Trademark infringement. Deposition, October, 2004. Worked for Defendant. Issue was that Pennsylvania based Community Banks, a multi-state bank, opened branches in Northern Maryland. Community First Bank claimed it already had a charter in Maryland and the intrusion of Community Banks diminished the value of their name. Case resolved in favor of Defendant – dismissal on Summary Judgment.

Trade Dress

Sound Board Manufacturer v. European Manufacturer. Trade dress infringement. Worked for plaintiff. Circa 1997. Issue was that European manufacturer bought a sound board from U. S. manufacturer, reverse engineered it, and sold their copy with exactly same layout and design in competition with U.S. manufacturer. Conducted survey of bands, churches, small recording studios, and other potential purchasers of mid-price sound boards. Case settled.

DRIDUCKS v. DRIDUDS. Trade dress infringement. Worked for plaintiff. 2004. A manufacturer of camouflage hunting clothes developed a unique camouflage design and used it for their primary line of clothes. A second manufacturer bought materials from same fabric company and produced exactly the same design for hunting clothes sold in similar outlets to the same population of hunters. Survey designed and implemented. Case settled.

VPX v ABB. Trade dress infringement. Worked for defendant. 2006. A manufacturer of liquid energy drinks sold in gyms, health clubs, and big box retailers filed suit against another manufacturer of liquid energy drinks, claiming that the shape and type on the bottles of the defendant were the same as that of the plaintiffs and caused confusion among potential purchasers. Conducted surveys of potential purchasers of liquid energy drinks to determine whether confusion exists. Deposition and testimony at bench trial. Judgment for defendant.

Patent Infringement:

Smith & Nephew v. Zimmer, circa 1999. Deposed, then case settled. Worked for defendant who admitted infringing on patent but claimed that the particular feature upon which they infringed was not important to the choice of the product by physicians. Product was hip replacement “cup” and “stem”, and feature was machining of cup to minimize friction. We conducted a survey of physicians to determine what features were important to the selection of a hip replacement part. We used the survey to calculate damages; results were used in the settlement deliberations.

Disparate Impact \ Discrimination

Loss of jobs, loss of work hours, lack of promotions for population of blacks working for a manufacturer who laid off blacks first, re-hired (called back) blacks last, refused to promote, and kept overtime for only certain workers. Worked for plaintiffs. Analysis of hiring practices, lay off records, filings with Federal government, and other records to develop pattern of practice analysis. Case settled, no testimony.

Disparate impact in promotions for minority workers for a large public utility. Worked for plaintiffs. Analysis of testing and promotion procedures, development of methods to ascertain if skill tests used led to disparate treatment of minorities. Report submitted, case ongoing.

Disparate impact for senior citizens for a public housing authority. Worked for city housing authority – plaintiff. Survey of senior citizens in a city to determine their attitudes and beliefs regarding different Federally sponsored senior citizen independent living facilities. Analysis of demography of general population in the city and comparison to distributions of residents in all independent living facilities in the city. Report and affidavit submitted, case ongoing.

Disparate impact for minorities in availability of cemetery plots in multiple cemeteries owned by single holding company. Analysis of sales of plots to individuals to ascertain whether a pattern of practice existed. Worked for defendant. Case ongoing.

Deceptive Sales Practices:

Executech v. Appleton Papers, circa 1998. Deposed, testified at class certification hearing. Class denied. Issue was whether Appleton Papers colluded with other manufacturers in the pricing of thermal fax paper products. Appleton had already won an antitrust case in Federal court on same issue. Conducted survey of pricing of product throughout Florida and proved that pricing of product was so discretionary at retail level that it was impossible to consider whether producer pricing had claimed impact at retail level. Case cited by Third District Court in Florida when tobacco class ruling in Florida was overturned on appeal.

Watkins et al. v. Dry Cleaners International, 2003. Not deposed, case settled before class hearing. Worked for defendant. Issue was whether DCI had properly informed customers of surcharge imposed to cover environmental costs. Plaintiffs claimed customers were confused and thought charge was improperly imposed tax. Survey conducted, damages calculated.

Fidelity Mortgage v. Seattle Times. Deceptive Trade Practices in Seattle Washington. Deposition in 2004. Worked for plaintiff. Damages calculated on lost sales because of publication of false interest rates. Case in appeals court.

Deceptive Sales practices case in California involving Botox, representing the cosmetics manufacturer. Worked for defendant. Deposed in 2004, case dismissed.

Toxic Tort:

Three separate **Toxic Tort** property value diminution cases in Florida between 1998 and the present. Deposition for the largest and latest case in 2001. All three cases were environmental contamination cases, with class actions brought against manufacturer. Worked for defense in all three cases on class certification issues and damages calculations. Deposed in last case, First Case class was not certified, Second case settled. Third: Bernice Samples, et al, v. Conoco, Inc.; Agrico Chemical Company; and Escambia Treating in the Circuit Court of the First Judicial Circuit in and for Escambia County, FL, Division: "J", June 2002, Deposition; Case settled.

Other Antitrust:

North Jackson Pharmacy, Inc. et al v. Express Scripts, Inc. et al. Independent Pharmacies filed an antitrust case against Pharmacy Benefit Managers (PBMs). Worked for plaintiff. Deposed in July, 2005; class certified.

North Jackson Pharmacy, Inc. et al v. Caremark Pharmacies filed an antitrust case against Pharmacy Benefit Managers (PBMs). Worked for plaintiff. Deposed in May, 2006; class certification pending.

Other cases:

Castro v. Ford Motor, Inc. **Wrongful Death** Suit filed in California. Deposition and Testimony in 2001. Worked for defendant. Survey used in case regarding use of Ford Explorers by the general public. Critiqued survey and damages calculations as rebuttal expert. Jury found in favor of Ford.

Mullinax v. Buffalo Rock. **Wrongful Death** Suit in Alabama. Deposition and Testimony in 2004. Worked for plaintiff. Sampling of trucks from Pepsi bottling plant taken and analyzed to demonstrate that Pepsi \ Buffalo Rock drivers frequently speed, even after plaintiffs mother was killed by speeding fully loaded truck. Results were that 70 to 80 percent of trucks were observed speeding during a three month period, and 90 percent of "roll-up" trucks were speeding during this period. Jury found in favor of plaintiff with sizable award.

Loss of value case regarding employee stock options when business owner was indicted on fraud and malfeasance charges. Worked for plaintiff. Case settled, no testimony.

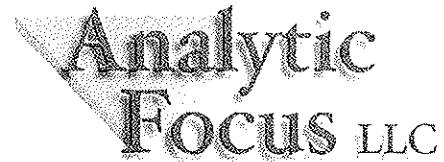
Loss of value case regarding value of a business when a contract was wrongfully terminated. Worked for plaintiff. Case ongoing, no testimony yet.

Lost value and population estimates for population affected in a marketing case where a franchisor allowed a new franchise to be built in the "blocked area" around an already existing franchise. Worked for plaintiff. Case settled - deposition, January 2006.

Rates

Personnel	Fees per Hour
Charles Cowan, Ph.D.	\$395
Senior Financial Analyst	\$350
Senior Research Associate	\$295
Programmer	\$195
Research Analyst	\$ 95

For expert representation, depositions and testimony, Dr. Cowan's hourly rate is \$495. Out-of-pocket expenses, including travel, lodging, meals, long distance telephone charges, photocopying, facsimiles and courier charges, will be billed separately and are in addition to the hourly fees. Invoices will be submitted to you monthly, and are due upon receipt.



Susan Cromwell Duncan, Ph.D.

ANALYTIC FOCUS LLC

Key Qualifications

Susan C. Duncan is a Senior Research Associate at Analytic Focus LLC. Dr. Duncan's areas of expertise are in statistical research design in education and behavioral sciences. Dr. Duncan has also consulted in areas of litigation creating and developing surveys and databases and consulted in Biostatistics designing studies, analyzing, and interpreting data results.

Dr. Duncan has extensive experience in educational research through teaching research and statistics, conducting various research studies, and taking part in grant-funded projects at Texas A&M University. She has presented at educational conferences and been elected as a peer reviewer for the Southwest Educational Research Association Conference and the American Educational Research Association Conference. Dr. Duncan has also been a peer reviewer for the American Educational Research Journal. Dr. Duncan consults on research design, appropriate statistical analyses, and results interpretation.

Prior to Dr. Duncan joining Analytic Focus LLC, she consulted with professionals in education, litigation, and biostatistics on survey research design and statistical analyses.

Education

Ph.D., Educational Psychology - Research, Measurement, and Statistics, Texas A&M University, 2006

M.S., Clinical Psychology, Abilene Christian University, 1998

B.S., Psychology, Sam Houston State University, 1994

Professional Experience

Senior Research Associate, Analytic Focus LLC, 2006 to present.

Founder, Duncan Consulting LLC, November 2005 to September 2006.

Research Assistant, Texas Electric Coalition Project, Texas A&M University, 2003 - 2004.

Research Assistant, Center for Collaborative Learning Communities, Texas A&M University, 2002 - 2003.

Research Assistant, Department of Student Life Studies, Texas A&M University, 2000 - 2002.

Secondary Teacher, 8th Grade/7th Grade coach, Midland Independent School District, 1998 - 1999.

SUSAN CROMWELL DUNCAN

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Professional Associations

Adjunct Professor, Educational Research and Foundations of Research, University of Alabama - Birmingham, Spring and Summer 2006.

Adjunct Professor, Experimental Design I and Educational Statistics, Texas A&M University, 2002 - 2004.

Adjunct Professor, General Psychology, Jefferson State Community College, Spring and Summer 2000 and Fall 2006.

Adjunct Professor, Introductory to Psychology, Texas Women's University, 1999.

Professional Societies - Positions

Program Representative, Educational Psychology Foundations, 2002

Program Chair, Educational Research Exchange, 2002

Program Chair, Educational Research Exchange, 2003

Peer Reviewer, Southwest Educational Research Association Conference, 2002 and 2003

Peer Reviewer, American Educational Research Association Conference, 2002 and 2003

Peer Reviewer, American Educational Research Journal: Teaching, Learning, Human Development (AERJ:TLHD)

Professional Societies - Memberships

American Educational Research Association, 2001 - 2004

Southwest Educational Research Association, 2000 - 2004

American Psychological Association, 2000 - 2002

Southwest American Psychological Association, 1998

Publications

Schenarts P, Bowen J, Bard M, Sagraves S, Toschlog E, Goettler C, Cromwell S, Rotondo M. (2006) *The effect of a rotating night-float coverage scheme on preventable and potentially preventable morbidity at a level 1 trauma center.* Am J Surg. 2005 Jul;190(1):147-52

Presentations and Conferences

Cromwell, S. *Item Response Theory and DIF Analyses: Software Package*, Southwest Educational Research Association, Dallas, February

J Bowen, MD, P Schenarts, MD, S C Duncan, MS, E Toschlog, MD, M Bard, MD, S Sagraves, MD, C Goettler and M Rotondo, MD. *Does Resident Continuity of Care Matter? : The Effect of a Night-Float Coverage Scheme on Morbidity and Mortality at a Regional Level I Trauma Center.* Presented at the Resident Research Symposium, Department of Surgery, Brody School of Medicine, East Carolina University, June 2, 2004

J Johnson, MD, R Mageau, MD, S C Duncan, MS, N L Jenkins, MD, J Bowen, MD, Y S

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Sun, MD, J S Roth, MD W Nifong, MD, W R Chitwood, MD, FACS, FRCS. *Acute Intestinal Ischemia Associated with Stapled Intestinal Anastomoses Reinforced by Lemberts' Sutures or Nitinol Clips*. Presented at the Resident Research Symposium, Department of Surgery, Brody School of Medicine, East Carolina University, June 2, 2004

Cromwell, S. *Effect Sizes: Reporting Them Didn't Come out of Thin Air*, Southwest Educational Research Association, San Antonio, February

Cromwell, S., & McNamara, J. *Demystifying Types I, II, and III Sums of Squares*, Southwest Educational Research Association, San Antonio, February

Cromwell, S. *A Primer on Ways to Explore Item Bias*, Southwest Educational Research Association, Austin, February

Cromwell, S. *Applying the Bootstrap to Multivariate Analyses through Various Software*, American Educational Research Association, New Orleans, March.

Cromwell, S., & Castillo, L. *Effects of Acculturation on Retention in Minority Students in an Academic Setting*, Vancouver, Canadian Psychological Association

Cromwell, S. *An Introductory Summary of Various Effect Size Choices*, Southwest Educational Research Association, New Orleans, February

Cromwell, S., Weber, D., & Lawson, D. *Intimate Violence vs. Non-Intimate Violence Profiles*, Texas Psychological Association Conference, Austin, Texas

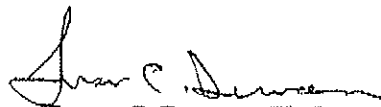
Past Experience and Rates - Susan C. Duncan

I have not been deposed or used as an expert witness in the past five years.

Rates

Personnel	Fees per Hour
Susan Duncan, Ph.D.	\$295

For expert representation, depositions and testimony, Dr. Duncan's hourly rate is \$395. Out-of-pocket expenses, including travel, lodging, meals, long distance telephone charges, photocopying, facsimiles and courier charges, will be billed separately and are in addition to the hourly fees. Invoices will be submitted to you monthly, and are due upon receipt.


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